IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1573 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMRUTLAL DEVSHI THRO'P.O.A. SHAH DHIRAJLAL BHAGCHAND

Versus

JASWANTIBEN VACHHRAJ DOSHI THRO'P.O.A.BHAILAL LAXMICHAND

Appearance:

1. Civil Revision Application No. 1573 of 1997

MR SURESH M SHAH for Petitioner No. 1

MR CC KAMDAR for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 17/03/2004

ORAL JUDGEMENT

The respondent No.1 herein filed an eviction suit against the respondent No.2 under the provisions of the

Bombay Rent Act for getting decree for possession on various grounds, being numbered as Civil Suit No.104/1990. The said suit was filed in the Court of learned Civil Judge (J.D.) at Mandavi. During the pendency of the aforesaid suit, the present petitioner herein submitted an application for impleading him as a party defendant, as he is claiming to be the owner of the suit property and he has vital interest in the outcome of the said proceedings. The trial Court allowed the said application and the present petitioner was permitted to be joined as a co-defendant. Against the said order, the respondent No.1 herein preferred a revision application No.2/1992 before the District Court at Bhuj. The learned District Judge allowed the said revision application and the revisional Court has observed that the present petitioner was not a necessary party in the said suit. It is the aforesaid order of the revisional Court, i.e. learned Assistant Judge, Kutch at Bhuj, which is impugned in the present Civil Revision Application at the instance of the original applicant, i.e the present petitioner herein.

2) At the time of hearing of this Civil Revision Application, Mr.Kamdar, learned advocate for the respondent submitted that the original suit itself is withdrawn by his client as the tenant has already handed over the possession of the suit premises on 31st March, 1998, and the trial Court has permitted the plaintiff to withdraw the pending suit. When the suit itself is not pending, there is no question of permitting the present petitioner to be joined as a party in the said suit. Therefore, according to Mr.Kamdar this revision application has become infructuous.

3) On the other hand, Mr.Shah, learned advocate for the petitioner has submitted that he has not received any instruction in this regard.

4) Considering the statement of Mr.Kamdar that the suit itself is withdrawn, in my view, this Civil Revision Application has become infructuous. Accordingly, this Civil Revision Application is disposed of as having become infructuous. Rule is discharged. No costs.

5) It is clarified that if the present petitioner has got any independent right in connection with the suit property, it is always open for him to assert his right by taking appropriate proceedings in accordance with law.

(P.B.Majmudar,J.)

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